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NOTES OF THE WEEK

The Lord Chief Justice on Crime

Speaking at the dinner given by the Lord Mayor of London to Her Majesty's Judges on July 10, the Lord Chief Justice referred to a great recrudescence of crime which had taken place in recent months. This was a great reflection on the nation at a time of full employment and high wages. Lord Goddard made it clear that he had in mind serious crime such as is dealt with on indictment. He did not think the psychopaths alone could provide an answer. In his opinion human nature did not change much, and the old causes of crime still prevailed: the desire for easy money, greed, lust, passion and cruelty.

It seems to be beyond dispute that a small but dangerous class of criminals are criminals by choice, actuated by the base motives named by the Lord Chief Justice. They do not mean to work, so full employment means nothing to them. They intend to prey on society, so the welfare state is a matter of indifference to them. These are the offenders who have to be dealt with by long sentences of imprisonment or preventive detention for the protection of the public, and this is so whether they are psychopaths or not, the question of particular institutions and treatment being another matter.

Even lesser crimes, committed by men who would never be described as belonging to the criminal classes, do not appear to have decreased as might have been expected. Poverty and unemployment used to account for a certain amount of stealing, which was easy to understand and not difficult to excuse. What is deplorable is that in these prosperous days men in well-paid occupations with no financial troubles so often stoop to dishonesty and seem quite unashamed about it. It is this lowering of standards of conduct that is so disquieting, as well as the increase in grave crime.

Murder and Malice

The Homicide Act, 1957, because of the important changes it made in relation to the law of murder, is bound to give rise to a number of problems which will be solved as a body of case law develops. Two important decisions of the Court of Criminal Appeal were reported in *The Times* of July 6.

The case of *R.* v. *Vickers,* heard by the Lord Chief Justice and four other Judges, was an appeal against conviction of capital murder. The appellant, having broken into the house of an elderly woman with the object of stealing, was discovered by her and he struck her many blows with the result that she died.

The Lord Chief Justice, in delivering the judgment of the Court, with special reference to s. 1 (1) of the Act, observed that if a person caused death during the course of a felony which involved violence, that used to be murder. Lord Goddard gave examples, and said that murder was killing with "malice aforethought," a term of art, malice being either express or implied. Intent was implied where the killer had inflicted grievous bodily harm by a voluntary act which was intended to cause grievous bodily harm. That was *malum in se* and the killer had to take the consequences. The Lord Chief Justice went on to discuss the meaning of the words "the furtherance of some other offence," and said that one had to show that, independent of the other offence, the act that caused death was done with malice aforethought. The appellant, in the course of a burglary inflicted violence upon the woman and killed her although perhaps he intended only to render her unconscious. The appeal failed and would be dismissed.

Thus, as the headline in *The Times* states, actual intent to kill is still not necessary to murder.

Diminished Responsibility

The other appeal, *R.* v. *Dunbar,* turned upon a defence of diminished responsibility and the duty of the Judge in summing up. This also arose out of a charge of murder committed during an offence of theft, and in the result the Court substituted a verdict of manslaughter and a sentence of imprisonment for life.

The Lord Chief Justice pointed out that under the Act it was for the defence to prove what is generally described as diminished responsibility, in order to avoid conviction of murder. Having referred to the Scottish decision,

Lord Advocate v. *Braithwaite* (1945) S.C. (J.) 55, and to *R.* v. *Carr-Briant* [1943] 2 All E.R. 156; 107 J.P. 167, Lord Goddard said the Court was of opinion that it must be pointed out to the jury in these cases that the burden on the defence was not as heavy as the burden on the prosecution.

Antedating Maintenance Order

A maintenance order is usually treated as operating from the date on which it is made. Magistrates doubtless consider that, unless there is High Court authority for antedating an order they cannot take that course except where a statute authorizes it, as in the case of certain affiliation orders.

It was decided in *Starkey* v. *Starkey* [1954] 1 All E.R. 1036 ; 118 J.P.N. 281 that where a wife's complaint on the ground of neglect to maintain was dismissed and the Divisional Court allowed her appeal and remitted the case to the justices to assess the weekly amount of the order, the justices had power to antedate the order at any rate to the date when the Divisional Court found that the wife's complaint had been proved.

This case was followed in *Meyer* v. *Meyer* [1957] 2 All E.R. 546, in which the facts were somewhat similar. An important point about this latest decision is that it seems to indicate that magistrates have power to antedate a maintenance order to the date of the complaint. In the course of his judgment Lord Merriman, P., said "I do not propose to go back to the date of the complaint and summons, but perhaps in passing I ought to say that there is some authority even for that," and he cited Karminski, J., in *McLellan* v. *McLellan* [1954] 1 All E.R. 1.

Even if magistrates have the power, they will need to exercise it with discretion, with due regard to the length of time between the date of the complaint and the date of the order. It would not serve the interests of either party if the defendant was burdened with a large sum due which he had little prospect of being able to pay.

Justices to pay Costs

If justices were likely to incur liability to pay costs whenever their decisions were overruled or whenever an order of *mandamus* or similar order was made against them many a suitable person would decline to accept the office. Fortunately, that is not the position, and when justices are ordered by the High Court to pay costs it is generally true that they have brought it upon themselves.

In *R.* v. *Llanidloes Licensing Justices, ex parte Davies* [1957] 2 All E.R. 610, an order of *mandamus* was issued against the justices and they were ordered to pay costs. They had appeared as parties in the *lis* and counsel had argued on their behalf, and this was the reason why costs were ordered. The Lord Chief Justice said that the Review of Justices' Decisions Act, 1872, seemed to have been forgotten for some time, and for some years past he had been reminding justices of it, both in court and when addressing meetings. This Act enables justices in case of such proceedings to file affidavits setting out the reasons for what they have done, and they do not even have to pay any fee or stamp duty. Their arguments, as stated in the affidavits, are considered by the High Court, and there is no necessity to instruct counsel. If they make use of the procedure provided by the Act, no costs will be awarded to or against them.

Lord Goddard having once more reminded justices of the true position, it is to be hoped that justices will make a practice of using the convenient and inexpensive machinery provided for their benefit, as indeed some already do.

Garaging in the Street

We wrote on this matter, which is very much in the news, at 121 J.P.N. 357 and in an earlier note, and we return to the subject now because we have received a letter from a senior officer pointing out some of the difficulties which the police encounter in seeking to enforce the law relating to obstruction of the highway by stationary vehicles. He makes it clear that the motorist's point of view is not the only one which the police have to consider in deciding whether to bring cases before the courts on the ground that vehicles are being left in the streets in such a way that obstruction by unreasonable user can be alleged. Complaints are received from householders who resent the eyesore of cars being parked, cleaned and repaired in the streets and, in many cases, covered by unsightly looking covers. There is a good deal of attendant noise and dirt and patches of oil drop on to the road surface. Complaints are also received, from time to time, from ambulance drivers and from fire brigades, whose vehicles are unable to stop where they should be able to because of parked vehicles.

The senior officer to whom we refer points out that people are lightheartedly buying cars without taking any steps to arrange for their being parked or garaged off the road, and the situation has now got completely out of hand. Yet when the police do try to take action to keep the streets reasonably clear of these permanent obstructions some people take the view that the poor motorist is being persecuted. We think that we have made our view on this matter clear on previous occasions, and we are interested to find that others share our view. We are grateful to our correspondent for taking the trouble to write to make this clear.

Justices' Clerks' Society

When justices' clerks assembled at Birmingham on June 26 for their annual conference they were breaking with tradition by meeting in a great provincial city. It was appropriate to choose Birmingham for their president, Mr. Augustus W. Dickson, LL.B., of Sutton Coldfield, has been closely associated with " England's second city " throughout his legal career. Moreover, another member of the Society, Mr. Geoffrey M. King of Stourbridge and Brierley Hill, is this year's president of the Birmingham Law Society. Those attending the conference and their ladies received gracious hospitality from the Lord Mayor on whose behalf his predecessor, Alderman J. R. Balmer, J.P., began the Society's annual meeting with a civic welcome. There were several important matters to discuss including the new procedure introduced by the Magistrates' Courts Act, 1957 and the evidence to be given on behalf of the Society to the Tucker Committee on proceedings before examining justices, and the Ingleby Committee on Children and Young Persons. To enable these and other matters to be considered in greater detail, discussion groups were held; each yielding a comprehensive exchange of experiences and views. Another popular and valuable feature was the meeting of representatives of the Society's 30 branches, covering 47 counties. This year discussion ranged from relationships with magistrates' courts' committees to insignia for branch societies. One branch is pioneering a course of lectures for justices' clerks' assistants; another has held half-day conferences for its own members to discuss, in greater leisure than an ordinary branch meeting permits, one or two particular aspects of the work of magistrates' clerks. The annual meeting adopted a resolution urging the introduction of civil aid certificates in magistrates' courts, especially in matrimonial cases which are often of complexity, and neither party is legally represented.

Mr. A. J. Chislett, B.Sc., (Croydon) was elected president for 1957/58 with Mr. G. Stanley Green (Manchester county and Eccles borough) as senior vice-president and Mr. Ralph Sweeting, M.A., LL.B., (Wakefield city and Osgoldcross) as junior vice-president. Mr. R. Leslie Hazell (Newington, London) has succeeded Mr. L. M. Pugh as honorary treasurer and Mr. B. J. Hartwell, LL.M., (Southport) was re-elected honorary secretary. Keen regret was expressed that Mr. Clifford F. Johnson (Blackpool) was resigning from the Council on which he has served since 1949. New members elected to the Council were Messrs. E. L. Bradley, M.A., (Wrexham), L. A. Edgar (Hastings), W. H. Gibson, B.A., (Hexham), and C. H. Netcott, LL.B., (Somerset). Among those present were two Honorary Members of the Society; Mr. A. C. L. Morrison, C.B.E., and Mr. Leslie M. Pugh, now Stipendiary Magistrate for Huddersfield.

The Justices' Clerks' Society's Prize for 1956 was presented to Mr. Joseph Ingham who was articled to Mr. A. E. Tritschler, a member of the Society. Social occasions included an excursion for the ladies through the Cotswolds to Broadway; a civic reception at the Council House, and a visit to the Stratford Memorial Theatre for a performance of "Julius Caesar." The Conference Dinner was held at the Grand Hotel and the guests included the President of The Law Society, the Vice-Chancellor of the University of Birmingham and Sir Arnold Waters, V.C., C.B.E., D.S.O., M.C., J.P. Mr. F. D. Howarth (Birmingham) ably filled the responsible position of conference secretary.

Driving while Disqualified: Special Reasons for a Fine

Section 7 (4) of the Road Traffic Act, 1930, provides that a person who is convicted of (*inter alia*) driving a motor vehicle on a road while he is disqualified shall be liable on summary conviction to imprisonment not exceeding six months or, if the court think that *having regard to the special circumstances of the case* a fine would be an adequate punishment for the offence, to a fine not exceeding £50, or to both imprisonment and fine. Special circumstances are to be interpreted in the same way as "special reasons" in other sections of the Road Traffic Acts (*Lines* v. *Hersom* [1951] 2 All E.R. 650 ; 115 J.P. 494).

In *The Western Daily Press* of June 18 is a report of the case of a man aged 26 who was charged with driving while disqualified, and with using the vehicle without insurance and with no road fund licence. He pleaded guilty to these charges, and to further charges of driving while disqualified and whilst uninsured at another place. The police reported that the defendant had previous convictions, and that in October, 1956, he was sent to prison for two months for driving while disqualified. His only "excuse" seems to have been expressed in the words, "I did it because I am mad about cars, I can't get them out of my system." It is reported that he was fined £5 on each of the charges relating to driving while disqualified and while uninsured and £3 18*s*. 9*d*. for having no road fund licence and that the chairman said that the sooner he grew out of his childishness the better. He was told that this was a last chance. There is nothing in the report which states what special reasons the court considered justified the imposition of fines instead of imprisonment on the two charges under s. 7 (4). Such reasons must, by *Lines* v. *Hersom, supra,* be special to the offence and not to the offender.

Lost Ball

Many a householder and nearly every schoolboy will be interested in the result, if it is reported in the newspapers, of a dispute which has arisen in a county borough in the Midlands. Around the playground of a secondary school for boys there is an eight *foot* wall, above which the local education authority caused six *feet* of wire netting to be erected. This 14 *foot* obstacle was not enough to prevent six footballs from going into an adjoining garden: it may indeed be conjectured that the obstacle was a temptation to juvenile achievement, like hitting a cricket ball over the pavilion. The owner of the garden did not relish the achievement, repeated up to six times; he kept the footballs and, in a statement to the press, said that he was doing so as a protest against the continual nuisance. His windows and garden had been damaged, and he wished the local education authority to take more effective steps to keep the footballs on their own side of the wall. The report before us says that the town clerk has been instructed to take action, so that questions of law will have to be decided, unless the parties come to an agreement. Similar things must have been happening since the beginning of English common law, but there is not much direct authority upon the right of a person, who complains of trespass by a chattel, to retain it as a means of securing compensation.

There is ample authority in case law upon the parallel claim by an occupier of land, to detain a trespassing animal, but many of the decisions found their way into the reports because they dealt with the place where an animal might be impounded, and the duty to take care of it. Leaving on one side rights and obligations peculiar to living creatures which have trespassed, we think the position of the footballs is as follows. The occupier of property is entitled to retain a ball which has broken a window or injured plants in his garden, until reasonable compensation is tendered by the owner of the ball. He cannot lawfully sell it or play with it himself; or sling it into the gutter or the dustbin ; he can keep it only as a pledge. He is, moreover, not apparently entitled to retain it for the purpose of obtaining compensation for annoyance, as distinct from damage to his property. By analogy with a decision where a farmer distrained several animals although only one could be proved to have done damage, it seems doubtful also whether the occupier is entitled to retain six footballs, unless he can show that each of them was guilty.

By the time this note is printed, it is only too likely that some compromise will have been reached, and that the dispute will not come into court. This is a pity from the lawyer's point of view, as well as from the schoolboy's and the gardener's ; it is not often that so trivial a matter involves so many arguable points.

Unwanted Containers

One of the things which is difficult to understand for persons not engaged in selling beer, is what advantage the licensed trade will derive from the new beer bottles mentioned in a recent statement by the Glass Manufacturers Federation—just as it is a puzzle to those who are not in the secrets of the National Health Service, why bottles containing medicine prescribed as part of that service do not when empty rank for payment if taken back to the chemist who made up the prescription. From the point of view of the manufacturers of bottles, there is evident advantage in supplying something which will be used once only, and it is true that the brewer or distributor of beer in bulk will have lighter loads to carry, because the new bottle is only half the weight of the old. If, however, it is true that the ordinary bottle could be used 40 times, it hardly seems to an outsider that the saving on transport

is worth while. This is a matter for the trade. What concerns local authorities is, on the one hand, the probability of a larger number of bottles put into the house refuse, which if they cannot be used again will be valueless as salvage, and secondly the likelihood of an increased quantity of litter, in its most dangerous and objectionable form, in parks and open spaces. If the new bottle is of advantage to the beer trade, similar bottles will presumably come into use for mineral waters, in place of those which are now returned to dealers and then to bottlers for refilling. There is another innovation which may be considered at the same time, namely, the supply of beer in one pint cans. These have evident advantages over any type of bottle, and, being in their nature usable but once, are bound to find their way into the dustbin or the litter bin (one hopes). Already the litter menace and the bulk of domestic refuse have been greatly increased, as compared with the years between the wars, by the practice of supplying prepacked foods, and drinks in cartons. When speaking of the new bottles one newspaper suggested that local authority scavengers would refuse to collect them, leaving them on the householders' hands. We do not, however, see any lawful grounds for such refusal; they are undoubtedly house refuse. The pint cans are not so bad; these can be salvaged and sold for melting down, but we believe empty bottles are a problem yet unsolved.

MAINTENANCE ARREARS: POWERS OF REMAND

The question often arises whether a magistrates' court has power to remand in custody or on bail a person appearing before the court in respect of arrears of payments due under an affiliation order, or an order enforceable as such.

To ascertain the answer it is necessary to consider a number of provisions. In the first place, arrears are declared by s. 74 of the Magistrates' Court Act, 1952, to be enforced "by order on complaint."

A complaint under s. 74 may result in the issue of a summons (by virtue of s. 43), or if the complaint is on oath, a warrant.

It is provided by s. 47 of the Act, that where the hearing of a complaint is adjourned in the absence of the defendant, a warrant for his arrest may be issued, if it is proved that a summons has been served on him a reasonable time before the hearing, or that he has appeared on a previous occasion to answer the complaint. There is a limitation of this power to issue a warrant where the defendant has given evidence in the proceedings.

So, applying these provisions to the case of a person summoned in respect of maintenance arrears, it would appear that a warrant for his arrest may be issued if he does not answer the summons or adjourned summons and has not given evidence. The significance of this is that the power to remand such a defendant, also given by s. 47, only extends to a defendant arrested on a warrant under that section. It is inconceivable that a defendant to a summons for arrears should not give evidence and be examined as to his means, and so for practical purposes, this power of remand extends not so much to the case of the defendant not answering an adjourned hearing, but to the one who ignores a summons duly served on him before the original hearing.

By virtue of s. 105, a remand may be in custody or on bail.

Turning now to the alternative procedure under s. 74, namely the issue of a warrant in the first instance, there would appear to be no power for a person arrested on such a warrant to be remanded.

So far then, it would appear that a person before the court in respect of maintenance arrears may be remanded in custody only if he is there by virtue of a warrant issued under s. 47; no such power exists if the warrant was issued under s. 74.

That conclusion does not, however, end the matter, for it is provided by s. 47 (8) that "a warrant under this section shall not be issued . . . in proceedings in any matter of bastardy." Arrears under maintenance orders, orders under the Guardianship of Infants Acts, or the Children Act, are recoverable as arrears due under affiliation orders. Are they consequently matters of bastardy? Are arrears under an affiliation order matters of bastardy?

The phrase "any matter of bastardy" is not new. It was found in the Summary Jurisdiction Acts, 1848 and 1879, in sections dealing with the application of those Acts, and the Act of 1848 may indeed throw a deal of light on its meaning. "Nor," states s. 35, "shall anything in this Act extend . . . to any complaints, orders or warrants in matters of bastardy made against the putative father of any bastard child, save and except such of the provisions aforesaid as relate to the backing of warrants for compelling the appearance of such putative father, or warrants of distress or to the levying of sums ordered to be paid, or to the imprisonment of a defendant for non-payment of the same."

The Magistrates' Courts Act is a consolidating Act and in interpreting its provisions reliance may be placed on the terms of the Acts that it superseded. It follows, from this extract from s. 35, that the enforcement of a bastardy order is "a matter of bastardy" and that being so the provisions of s. 47 of the Magistrates' Courts Act relating to the issue of a warrant do not extend to the enforcement of bastardy arrears. It follows that there is no power to remand under that section.

Now it is provided in the relevant Acts that arrears of maintenance due by virtue of an order made under the Summary Jurisdiction (Separation and Maintenance) Acts; the Guardianship of Infants Acts; the Children Act, or the Children and Young Persons Act, are in each case to be enforced in the same manner as the payment of money is enforced under an affiliation order.

As has been shown, arrears due under an affiliation are recoverable only by virtue of s. 74; therefore arrears due under any of the orders mentioned are also so recoverable. Since s. 74 gives no power to the court to exercise the powers of remand given by s. 105, it follows that a defendant before the court in respect of arrears is not liable to be remanded, either in custody or on bail.

In practice the hearing of such cases is often adjourned, and there is no handicap in the absence of bail, as non-appearance is so easily cured by the issue of a fresh warrant under s. 74. Where the power of remand would be useful is where a defendant has only been arrested after much effort and the case has to be adjourned for the attendance of the woman, or some other reason. In such a case the court can only adjourn the hearing and hope that the defendant will turn up.

THE WHITE PAPER ON LOCAL GOVERNMENT FINANCE

Mr. Brooke, Minister of Housing and Local Government, addressed 1,200 women Conservatives at Cheltenham on June 3. He said there what he has said before and since: that the Government intend to go boldly forward with a great Local Government Bill, the purpose of which would be to strengthen local government and re-shape it to meet the needs of the modern world. The Bill would cover form, functions and finance.

Two White Papers dealing respectively with areas and functions were issued in July, 1956, and May, 1957. It is an understatement to say that local authorities are not wholly convinced that the proposals made in these papers satisfy Mr. Brooke's eulogistic prophecies.

Now the third White Paper—on finance—has appeared. It states the proposals of the Government as outlined by Mr. Brooke in the House and elsewhere. These proposals fall under the two headings of rates and grants: we refer to them in detail later. It will be remembered that the Minister has often spoken of the need for a "sound financial basis" to "strengthen the independence and improve the quality of local government." He has repeatedly referred with sorrow to the way in which grants have ousted rates as the main source of local revenue, to the increasing cost of grant-aided services, and to the evils of percentage grants; these according to him, consisting of incitement to spending and the high cost of administration.

These criticisms were sugared with the promise that if block grants were accepted in lieu of percentage grants there would be substantial freedom from central controls. It is true that the controls to be abolished have never been detailed but the mind of the Government may be read from statements such as the reply given by Sir Edward Boyle in the House on March 14 last to Dr. King, who had asked the Parliamentary Secretary to the Ministry of Education what legislative changes he proposed, as a result of the proposed new grant structure, in the apportionment of statutory responsibility between the Minister and local authorities, particularly as regards the present Ministerial responsibility for adequate school buildings, size of classes, provision of adequate primary and secondary education and other duties under the 1944 Act. The reply was that while changes in the Education Acts could not yet be specified it was not proposed to make any changes which would affect the apportionment of statutory responsibilities in regard to the matters referred to by Dr. King. Sir Edward said: "My noble friend does not intend to give up controls which are needed for the maintenance of standards or the carrying out of national policy." Now, as students of the Education Acts and Regulations are aware, controls exercised by the Minister not directly related to the grant paid are numerous, fundamental and far-reaching: he has a statutory power, for instance, to make regulations regarding building, medical inspection, university and other awards (as has been brought home sharply to those authorities who were averse to accepting the income scale proposed by the Minister), school attendance and handicapped pupils. In addition he has power to inspect educational institutions and demand such returns as he desires, to approve and enforce payment of salary scales of teachers and in certain instances to act as a Court of Appeal, for example in disputes between county councils and excepted districts. All these powers spring from the Education Act, 1944, s. 1 (1) of which it is interesting to recall reads:

> "It shall be lawful for His Majesty to appoint a Minister (hereinafter referred to as 'the Minister'), whose duty it shall be to promote the education of the people in England and Wales and the progressive development of institutions devoted to that purpose, and to secure the effective execution by local authorities, under his control and direction, of the national policy for providing a varied and comprehensive educational service in every area."

Similar systems of control, which we shall not detail here, apply to other major services.

The White Paper now promises a comprehensive review of central controls: the real intentions of the Government will be known when decisions arising out of the review are announced.

In spite of this uncertainty the promise of liberty has proved attractive to some local representatives (who have not always thought deeply about what it means) and the prospect of a block grant is attractive to others who think that too much is being spent on the provision of local services.

The Government's objective is definite and if the White Paper proposals become law it will have been achieved. It is strongly felt in London that taxation has become excessive and must be reduced: in that context the local government financial proposals rank with cuts in defence expenditure and other economies. The calls on the Chancellor of the Exchequer will be reduced and to the realization of this aim the Government attach prime importance. It is a great and vital matter and, we believe, one which must command widespread support.

Nevertheless, we are entitled to probe a little as to the way in which the local authorities come out of it.

The answer is: not very well. They will lose in total a sum of the order of £20 million which they formerly received as grants and the true measure of independence which they will in future enjoy may in principle be little different from what it was in the past. In addition, delayed and cushioned though they are, substantial rate increases will affect a great number of authorities (the fact that others secure decreases is of little comfort to ratepayers faced with rate increases of several shillings).

The detailed proposals, as has been stated, fall under the two heads of rates and grants. Before considering these it may be well to mention what the Government do not propose to do. After full investigation they do not think it practicable to devise a satisfactory new source of local revenue, nor do they propose to earmark for the benefit of local authorities any tax that is now levied nationally. Rates and grants will finance local government, as in the past, but in altered proportions.

The rating proposals are that industrial and freight transport hereditaments shall be re-rated to 50 *per cent.* of net annual value and that there shall be a comprehensive review of the principles on which plant and machinery are now rated. A committee is therefore being invited to prepare a new order to replace the Plant and Machinery (Valuation for Rating) Order, 1927. The local authority associations consider that there should be complete instead of partial re-rating of indus-

try and there was considerable criticism of the continuance of de-rating when the Minister spoke at the Conference of the Institute of Municipal Treasurers and Accountants at Edinburgh in May last. He was told that before the tinkering tendencies of recent years the rating system had been more highly powered, that if, as the speaker said, he was proposing to put the clock back he should do more to increase local revenues and to this end industrial de-rating should be abolished and agriculture should be called upon to contribute to the cost of local services from which it benefited. This view was not accepted by the Minister who said that it was essential to safeguard industry's capacity to compete in the export market and that even under the partial re-rating proposals industrialists would have to contribute 12½ *per cent.* of the total rate bill instead of the figure of 4¼ *per cent.* which obtained in 1955–56 before the last revaluation.

Rates paid are an allowable expense for income tax purposes and therefore the full impact does not fall on manufacturers or traders. Having regard to the disclosed profits of both classes we must agree with the local authority associations, and in general with the view that if rates are to meet an increased proportion of local costs the fewer the number of hereditaments valued at less than full and fair value the better.

The White Paper gives details of the changes proposed with regard to the rating of the electricity, gas and transport industries. The most important points are that in future electricity properties will be rated on lines similar to those now operating for the gas service, the amendment of the gas formulæ in relation to whether gas is purchased, processed or manufactured, all transport payments to be treated in all aspects as rates, partial use of railway and canal properties for other purposes not to be separately rated, and provisions enabling the Minister, after consultation with the industry concerned and with the local authority associations, to alter the basic totals of rateable values of the gas or electricity boards on the occasion of other substantial changes of circumstances.

Two ancilliary matters affecting rates are mentioned. The first suggests that rating authorities may need to give greater publicity to their arrangements for accepting payment of rates by instalments as the amount to be levied as rates is unlikely to fall! The question of making the extraction as painless as possible is one which is constantly before finance committees and treasurers: they are pretty well aware of the financial capabilities of their ratepayers and we think any necessary action will be taken without outside prodding.

The other matter relates to information given to ratepayers: it is stated that proposals will be made in due course for amendment of the regulations relating to demand notes. This is all to the good. It can be safely said that at present the information on the back of a rate demand note, partly because of its unattractive and complicated method of presentation, is one of the most unread statistical compilations in the country. The White Paper considers that more information should be given to ratepayers, but as anyone closely connected with local government knows, the real problem is not to provide information but to get the ratepayers to read what is provided.

The Institute of Public Relations (to whose activities we referred in our issue of October 27, 1956) may have a useful part to play here. Nevertheless, it will be remembered that in winding up the debate on Public Relations in the House on June 8, 1956, Mr. Brooke (then Financial Secretary to the Treasury) seemed well satisfied with the way in which public authorities were dealing with public relations work, and went so far as to warn that public relations was a field in which money can be squandered.

We shall review the grant proposals in our next article.

REVISION OF ELECTORAL BOUNDARIES

Continued from p. 447, *ante*

THE PETITION

The actual form of petition is not prescribed but a short memorandum with regard to its presentation has been drawn up by the Home Office for guidance.

The "detailed statement of proposals" to accompany the petition may generally be a tabulated statement of the reasons which have led the council to submit their petition, and the arrangements they have in mind for giving effect to it. The statement of the proposals may be printed (or stencilled) and bound with the petition in booklet form.

There is no statutory form of the advertisement referred to in the section, but a draft will be supplied by the Home Office.

Section 25 (2)

Where a petition is presented under this section by the council of a borough not divided into wards, praying only for an alteration of the number of councillors, His Majesty may, by Order in Council, alter the number of councillors of the borough as from such date as may be specified in the Order.

When a proposed scheme of revision is confined within the limits of this subsection, the matter may proceed without the appointment of a commissioner and the holding of local inquiry as provided in the following subsection, though that procedure is not ruled out if the Privy Council do not think fit to decide on the petition forthwith.

The reason for the provisions of the subsection becomes clear when it is recognized that in a borough not divided into wards all the electorate have the opportunity for voting for the whole council, and a mere alteration in the number of the council does not affect this policy: once, however, the revision involves a question of wards, different sections of the electorate become concerned with alterations, and matters of proper balance arise, which require to be more closely examined.

Section 25 (3)

Where a petition, other than such a petition as is in the preceding subsection mentioned, is presented under this section the petition shall, unless it appears to His Majesty in Council that the petition ought not to be entertained, stand referred to the Secretary of State, and the Secretary of State shall appoint a commissioner to prepare a scheme, and the commissioner shall hold such local inquiries for that purpose as he may consider necessary.

The great majority of petitions presented will be referred to the Secretary of State because, even if on the face of it a petition does not appear a very sensible solution of a borough's problems, it would no doubt be considered advis-

able for a proper investigation to be made through the Home Department, which has the experience enabling it to advise the Privy Council. It is, indeed, unlikely that a petition would ever be rejected without investigation, unless perhaps it showed on the face of it (or of the accompanying documents) that its purpose was purely partisan.

The Secretary of State has a panel of barristers upon whom to call to fulfil the office of commissioner under the section, and the appointment of a commissioner is usually notified within a few weeks (or sometimes days) from the presentation of the petition. It is for the commissioner himself to decide upon the local inquiries he may wish to hold or make. His first intimation is very likely to be one to the town clerk inquiring whether there is any definite assurance that the proposals find general favour in the borough. If there is any indication of any important objection, whether in the council itself or from a political party or otherwise, it may be assumed as inevitable that there will be a public inquiry. Even where the proposals are unanimously agreed in the council, and local political parties and other organizations are also accepting them, the commissioners have sometimes held a public inquiry, in order to make sure that unorganized local opinion has an opportunity to make itself heard. Some commissioners have, instead, desired further press advertisement, to ensure that no other opposition is forthcoming.

Even if there be no opposition and no public inquiry, a commissioner will not dispense with making his own inquiries, usually on the spot. He is likely to traverse the proposed boundaries in company with the council's officers. He may wish to do this on foot, instead of in a car, so as to put himself in the place of an elector, and it has been known for a commissioner himself to perambulate all doubtful boundaries. He will certainly review the whole provisions of the scheme himself. In a case, for example, where an agreed scheme may have been drawn up and perhaps for geographical considerations one ward is rather outbalanced in size in relation to the others, the commissioner is not likely to accept even an unqualified indication that this disproportionate ward is generally approved locally without himself investigating whether he should suggest any alteration. If he does not, he is likely to embody in his report an indication that he has examined the position.

C.P.C.

(To be concluded)

MINISTRY OF HOUSING AND LOCAL GOVERNMENT ANNUAL REPORT

The recently issued report of the Ministry of Housing and Local Government for 1956 continues the series of annual reports which were resumed in 1955. In the chapter on housing, reference is made to important developments including new legislation which was passed during the year. On rent control an account is given of the work of the rent tribunals established under the Furnished Houses (Rent Control) Act, 1946, which have been concerned with the fixing of reasonable rents for furnished lettings and granting security of tenure in respect of them. The jurisdiction of the tribunals was extended by Acts of 1949 and 1954 to include the determination of increases in controlled rents for certain unfurnished lettings and of increases on account of increased cost of services. The Act of 1946 is a temporary measure which is at present due to expire on March 31, 1958. During the year the tribunals considered 4,551 applications under their original jurisdiction, as compared with 4,366 in 1955. Three-quarters of the cases decided under the 1949 Act resulted in an increase of the standard rent.

From the account of the action taken on slum clearance it is satisfactory to know that by the end of the year the Ministry had dealt with proposals by 1,267 out of a total of 1,299 local authorities in England and 163 out of 168 local authorities in Wales. There was a considerable increase over 1955 both in the number of unfit houses demolished and in that of occupants rehoused.

House building continued at a high level during the year. Nearly 269,000 new permanent dwellings were completed in England and Wales, compared with 283,000 in 1955. The number of houses built by local authorities declined from 162,525 in 1955 to 139,977 in 1956. In addition 2,518 houses were completed by housing associations as against 4,444 in 1955. Over 32 *per cent.* of the dwellings put out to tender by local authorities during the year were flats. The average size of three-bedroomed houses was approximately 912 *sq. ft.* as in 1955.

In accordance with Ministry Circular 64/1952 local authorities continued to sell council houses to sitting tenants and to persons with housing needs. Up to the end of 1956, 419 local authorities and development corporations had disposed of 7,803 houses. Of these, 2,368 were sold either freehold or leasehold during 1956.

During the year continued emphasis was placed on the importance of making the best use of existing dwellings by means of improvements and conversions. Thirty-three thousand seven hundred and one dwellings were thus approved for grants under part II of the Housing Act, 1949.

At the end of the year 32,676 requisitioned properties, providing 54,347 dwellings, were still held by local authorities for housing purposes. The power to retain possession of these properties expires on March 31, 1960. At the end of the year two-thirds of the councils still holding requisitioned houses had fewer than 25 families to provide for and only a quarter had more than 100. Those with large numbers are concentrated in Greater London and, to a less extent, in a few of the provincial cities.

Local Government

Local government in its broadest sense embraces all of the functions of the department and many of those of other departments as well. The scope of the local government chapter in the report is, however, restricted to local government in general. Reference is made to local government reorganization, boundary changes, local government superannuation, building byelaws, clean air, and local government services. The Minister is responsible for advising Parliament on private Bills promoted by local authorities. Many of the provisions in the 48 Bills which became law in 1956 were on well precedented lines, but the construction of new works and the extension of existing statutes were also allowed by Parliament. The Bedford Corporation Act, 1956, is the first local Act to modify the operation of the Rent Acts, by mak-

ing it necessary, wherever furnished accommodation is let to aliens, for the landlord to provide a separate rent book for each individual to whom accommodation in a house may be let.

Planning

The first part of the chapter on planning contains a summary of the main activities and problems of the department during the year in the field of town and country planning. The second part consists of a review of planning problems over the Greater London area since the war. Deciding on planning appeals continues to be an important function of the Ministry. There were 6,699 appeals in 1956 as compared with 6,553 in 1955.

The report for 1955 referred to the circular on green belts issued in that year in which local authorities were advised to consider establishing a green belt wherever this was needed to check the further growth of a large built-up area, to prevent neighbouring towns from merging into one another, or to preserve the special character of a town. By the end of 1956, sketch plans had been submitted for green belts round most of the largest urban areas. It is emphasized, however, that the establishment of a green belt is a step which calls for most careful deliberation. The strict control of development that needs to be exercised in green belt areas in order to resist the pressure of urban sprawl cannot be justified except where the position urgently demands, that is, in the limited number of cases falling within the three categories mentioned in the circular. Elsewhere, round smaller towns and in the countryside as a whole, it will still be the duty of local planning authorities to prevent wasteful and sporadic development, but this task can be carried out without the need for a green belt. Where a green belt is justified it will be as a firm restriction on an urban area which would otherwise grow beyond proper limits, and it will serve essentially to define the long-term boundary to the built-up area.

Local Government Finance

The chapter on local government finance is of special interest in view of the proposals for local government reorganization. On the effects of the revaluation, figures are given showing that the total rateable value for England and Wales, which as shown in the new lists when they were first deposited in December, 1955, amounted to £623.0 million, increased further to £629.4 million by April 1, 1956, mainly due to new properties. This was 74 *per cent.* more than a year earlier. In consequence local authorities were able to make substantial reductions in rate poundages. The average rate levied in 1956–7 was 15*s.* 8*d.* or 31 *per cent.* below the figure of 22*s.* 10*d.* for 1955–56. The individual poundages for 1956–57 ranged from 10*s.* to 27*s.* 7*d.*; the corresponding range for 1955–56 was from 15*s.* to 35*s.* 9*d.*

Following representations on behalf of shopkeepers and other commercial ratepayers, the Rating and Valuation Bill was introduced to make a temporary reduction of one-fifth, for the duration of the present valuation lists, in the rateable values of certain classes of business premises.

The total expenditure on revenue account of local authorities in England and Wales rose from £1,127.5 million in 1953–54 to £1,225.3 million in 1954–55, an increase of 8.7 *per cent.* The total for 1954–55 included £195.2 million for loan charges, 13.3 *per cent.* more than the corresponding figure for 1953–54. Wages and salaries increased from £547 million in 1953–54 to £590 million in 1954–55 or 7.9 *per cent.* in contrast with the previous increase of 3.4 *per cent.* in 1953–54. The total expenditure for 1955–56 was estimated to have been about £1,315 million. Education showed the largest percentage increase at 12.2 *per cent.* Gross expenditure on housing rose by 11.5 *per cent.* Income from rates rose by 4.3 *per cent.* to £391.1 million. It was estimated that there would be a further increase of 2.8 *per cent.* for 1955–56. Income from Government grants and reimbursements rose by 9.3 *per cent.* and was estimated to rise further by about 10 *per cent.* for 1955–56.

MISCELLANEOUS INFORMATION

COUNTY BOROUGH OF HASTINGS: CHIEF CONSTABLE'S REPORT FOR 1956

By recruiting during the year two more members than they lost (five to three) this force reached on December 31, 1956, an actual strength of 129. Its authorized establishment is 133. Figures are given of losses and gains for the years 1952 to 1956 inclusive and these show a net gain during that period of nine.

In 1955, the chief constable re-organized the special constabulary, and they now have a total strength of 68 men and six women. During the year they performed 3,771 hours of duty. They have been re-established in new headquarters and the chief constable hopes to start re-equipping them, particularly with new uniforms, during 1957.

Under the heading of training it is recorded that, in order to widen the force's understanding of people and of the conditions under which they live and work the winter training programme has included talks by persons from different walks of life and visits to local centres of employment. A police officer is brought very much into contact with all kinds and conditions of people, and it must help him, in his dealings with them, to have some real knowledge of the problems and difficulties which they have to face and of their way of life.

The crime figures for 1956 showed a slight decrease compared with 1955, 491 against 501. 202 persons "came to the notice of the police for indictable offences" and of these 117 were prosecuted and the remaining 85 were "not taken before the court for special reasons such as age and illness." No further details are given on this point. Forty-nine juveniles were included amongst the number prosecuted, compared with 51 in 1955. Details are given of two interesting cases dealt with during the year. In one a man was convicted of house-breaking, the evidence of identity depending on establishing that the impression of a bare foot at the scene of the crime was made by his foot. This is claimed to be the first case, in England, in which a man has been convicted on "foot-print evidence." It is recalled that the first conviction on finger-print evidence was in 1905. In the other case, intelligent "police work" by a householder led to a house-breaker's arrest. She returned home and saw the man standing at her wardrobe. She immediately telephoned to the police such an accurate description of him that the police were able, later the same evening, to identify and arrest him.

For non-indictable offences 34 juveniles and 503 adults were proceeded against. The latter included five charged under s. 15 of the Road Traffic Act, 1930, and 35 charged with drunkenness. In addition, written warnings were sent to 367 people, about 75 *per cent.* of whom were alleged to have committed minor traffic offences. Ninety-two other people received personal warning and advice from either the chief constable or his deputy.

Hastings is a popular venue for many motor rallies, and during 1956 seven were held there. These functions inevitably add to the duties of the police in order to ensure the safety of spectators and the satisfactory organization of the traffic and other matters connected with them. The chief constable expresses the opinion that the road lay-out and parking facilities in Hastings make it admirably suited for such rallies.

There was a decrease of 15 in the number of reported accidents, which totalled 462. It is suggested that the big drop in the percentage of children injured in accidents (from 22.6 to 18.1) proves

that the "Mind that Child" campaign was taken to heart in Hastings. On two recent developments the chief constable makes comments. He is sure that there is no case locally for the designation of roads to permit parking without lights. There are, in his view, adequate parking spaces, and in the streets the correct use of authorized parking lamps should suffice. There are nearly 5,000 dogs in the town and, in the past three years, there have been 213 accidents in which dogs have been involved. He has recommended, therefore, that certain roads be designated, under the 1956 Road Traffic Act, as roads in which dogs must always be kept on leads.

SUFFOLK PROBATION REPORT

It cannot be too strongly emphasized that in work like that of probation officers, statistics, though useful to some extent, cannot give a true picture of what the work may involve. Mr. Denis J. Hodges, principal probation officer for the county of Suffolk, is right to point this out as he does in his annual report for 1956. The problems of one person under supervision may, as he says, be quickly adjusted, whilst those of another will entail prolonged and concentrated casework that will test the professional ability and faith of the officer to capacity. The statistical entry of "One case" is the same in both instances. In the field of matrimonial work, "One visit" may involve an officer travelling half a mile or 30 miles: and may last half an hour or three hours.

Repeated probation orders should, it is generally considered, be exceptional, particularly in the case of adults. With children it may more often be worth while to try again. About this, Mr. Hodges says "The Suffolk courts very wisely hold the view that the commission of further offences should not be overlooked, and probationers are brought up for judgment in order to demonstrate that the agreements "to be of good behaviour" are not to be entered into lightly. However, whilst the courts know that too frequent use of probation in respect of the same individual tends to bring the system into disrepute and is to be avoided, it is realized that there are instances where the continuance of supervision is most likely to produce the desired result, and justice is tempered with mercy."

On the use of probation in the higher courts there are some interesting figures. There were 203 cases, exclusive of motoring offences before those courts, and inquiries were made by probation officers and reports prepared in 181 cases. In the 42 cases where reports contained specific recommendations that supervision on probation was likely to prove beneficial, four made further appearances before the court, and were sentenced; two were in custody awaiting trial; and 36 individuals (85 *per cent.*) continued to progress satisfactorily at the close of the year. Chairmen have shown continued interest in their progress, and this, the report says, is a source of great encouragement to both officers and probationers.

After-care work has also met with considerable success. It is stated that 86.3 *per cent.* completed their period of supervision satisfactorily. It is also satisfactory to read the results of work in matrimonial cases. Of the 287 cases where both parties were interviewed by the probation officer, and reconciliation efforts made, 163 or 56.7 *per cent.* remained living together as man and wife at the end of the year.

Mr. Hodges takes the right view of the object of probation when he writes that the probation officer is not content with superficial results and adds, "He does not persuade a person, for example, to give up theft only 'because it is a mug's game and you get caught,' but aims to bring a more profound change in attitude, to re-educate the individual to accept 'fair play' and honesty as fundamental to decent citizenship."

DERBYSHIRE FINANCES, 1956–57

Mr. T. Watson, A.S.A.A., F.I.M.T.A., Derby county treasurer, has printed and published as early as June, his sixth annual booklet summarizing the main features of the county council's accounts for 1956–57. This is a notable achievement and, as is usual, the method of presentation of the contents of the publication is as equally deserving of commendation as the celerity of its appearance.

Derbyshire is one of the larger counties: there are 18 other English counties greater in area but only 10 in population. After revaluation its penny rate produced £25,700 and the county precept fell from 15*s.* 9*d.* to 11*s.* 6*d.*, helped also by a larger equalization grant which is expected to amount to 34 *per cent.* of net expenditure as compared with 30 *per cent.* in 1955–56. The total rates levied in the administrative county for 1956–57, including the demands of the county districts, averaged 16*s.* 11*d.*

Mr. Watson rightly emphasizes that in making comparisons of one year with another the continuing fall in the value of money must be taken into account. The yearly averages of the Ministry of Labour monthly indices show what has happened:

Financial Year	*Cost of Living Index*	*Index of Wage Rates*
1949–50	100	100
1955–56	136	141
1956–57	141	151

Nevertheless, these variations are not the whole explanation: during the year services continued to develop and costs increased substantially. Total expenditure was £14¼ million of which £3½ million fell on the rates, and of this total the education service spent £8¼ million. The total of gross expenditure is almost exactly double the figure for 1949–50: it is apparent therefore that services have greatly expanded since that date.

Loan debt has also continued to rise with capital expenditure. £2 million was spent in the year of which close on £1¼ million was for education. Outstanding loan debt of £9 million (£7 million for education) was equal to £12 17*s.* per head of population. Mr. Watson comments that interest rates have fallen only slightly since their peak at the beginning of the financial year despite the fall in the bank rate in February last of ½ *per cent.* to five *per cent.* Stock issues are being made at a slow pace and are not now allowed for amounts of under £3 million: this policy is adding to the demand for other capital funds and helps to maintain interest rates at a high level. Latest average rate of interest paid by Derbyshire was 4.2 *per cent.* The council meet from revenue small items of capital expenditure up to a net rate-borne limit of 3*d.*

The aggregate balance sheet shows that at March 31 last revenue balances totalled £653,000 of which plant and stocks represented £289,000 and cash £350,000, the balance being the net difference between debtors and creditors.

The council have established a Capital Fund under Local Government (Miscellaneous Provisions) Act, 1953, and also maintain a Repairs and Renewals Fund.

The booklet concludes with useful tables showing unit costs of various county services.

ROAD CASUALTIES — GREAT BRITAIN, MAY, 1957

Thirteen fewer people were killed this May on the roads of Great Britain than in May last year; 1,779 fewer were injured.

Killed	—	445, decrease	13
Seriously injured	—	5,223, decrease	364
Slightly injured	—	17,600, decrease	1,415
Total	—	23,268, decrease	1,792 (7¼ *per cent.*)

The number of pedestrians killed fell by six and the number of motorists by 15. Although motor-cycling fatalities increased by 26, 132 fewer motor-cyclists were seriously injured. Eighteen fewer pedal-cyclists were killed and 90 fewer seriously injured than in May, 1956.

The Road Research Laboratory estimate that motor vehicle mileage on trunk roads and classified roads was 10 *per cent.* less than in May, 1956.

Total road casualties for the first five months of the year numbered 92,648, 6,383 less than the total for the corresponding period last year.

COUNTY BOROUGH OF EASTBOURNE: CHIEF CONSTABLE'S REPORT FOR 1956

The chief constable notes with satisfaction that of the 10 men and one woman who were appointed as recruits during the year six of the men and the women had fathers who were police officers. In addition to the 11 recruits there were two transfers from other forces, and one officer rejoined the force after service in Kenya. Losses numbered 11, and one officer was seconded to a training centre. This left the force, on December 31, 1956, with an actual strength of 124. Its authorized establishment is 127. The special constabulary numbered 57 men and four women and their assistance to the regular force during summer week-ends and on bank holidays, when it is most needed, is acknowledged.

Good relations with the public is a matter to which the chief constable rightly attaches considerable importance and it is reported that there was, during the year, a considerable increase in the number of parties who were shown round police headquarters. A realistic touch was given to the Eastbourne Ideal Homes and Trades Exhibition by a stall set up there by the police to demonstrate the need for properly securing homes and shops to make the work of would-be thieves more difficult. This aroused considerable public interest.

In dealing with sickness the chief constable reports that from January 1, 1956, he has allowed members of the force to report

sick without a medical certificate for not more than three days. He is satisfied that this privilege has not been abused and that it is of benefit to all concerned, not least to the doctors.

Reported crimes numbered 607 during 1956, 59 fewer than in 1955, and 372 (61.3 *per cent.*) were cleared up. There has been a decrease each year since 1952 (when the total was 850) in the number of recorded crimes.

Juvenile offenders reported for all kinds of offences, numbered 113, and they were responsible for 179 offences. Thirty-six of them were taken before the juvenile court for some 94 offences. Presumably the other 77 juveniles were otherwise dealt with.

For non-indictable offences 418 persons were taken before the magistrates' court for 607 offences. Four hundred and six were convicted. In 1955, 362 were prosecuted and 336 were convicted. Cautions by the chief constable during the year numbered 303, and there were in addition no fewer than 3,000 verbal cautions, against 2,150 in 1955. The chief constable states that he is satisfied that this saves police time and promotes a better relationship with the public who commit these minor offences, most of which are traffic offences.

Road accidents involving death or injury numbered 307. It is recorded that at two road junctions at which halt signs backed by yellow boards have been erected accidents have been markedly reduced, in the one case from four in 1955 to none in 1956, and in the other from seven to one.

The report gives details of various measures which have been taken to improve parking facilities in Eastbourne for 1957. It is stated that the wide roads there make the traffic problem less acute than in many other places and allow the authorities to wait and see how new ideas, such as parking meters, are working elsewhere before trying them in Eastbourne. The residents are thanked for the way they have responded to the chief constable's efforts to secure compliance with lighting regulations affecting parked vehicles, by the use of a single parking lamp instead of the normal front and rear lamps. This has reduced considerably the number of vehicles left parked without lights of any kind.

Only three persons were prosecuted for driving or being in charge of vehicles while under the influence of drink, and in two of these cases the information was dismissed.

NATIONAL ASSISTANCE BOARD

The report of the National Assistance Board for 1956 shows that 1,656,000 allowances were being paid at the end of the year. Apart from applications for grants to meet charges under the National Health Service, most of which were made by persons receiving weekly allowances, the number of applications dealt with during the year was about 3,000 fewer than in 1955. More than two-thirds of the allowances were being paid to persons with national insurance benefits. Others were in supplementation of non-contributory old age pensions and to persons registered for employment but not entitled to unemployment benefit, together with 317,000 persons not receiving national insurance benefit or non-contributory old age pensions. It is sometimes stated that there are still many old age pensioners who are living in poverty because they do not apply for national assistance. It should therefore be widely known that assistance for the payment of rent is a most important function of the Board and that in 99 *per cent.* of the cases assisted the rent is met in full. Assistance to the amount of £1,226,000 was granted to meet National Health Service charges. The special arrangements which have been made for the refund of prescription charges through the post office or through an area office are explained.

In the enforcement of the liability of husbands for the maintenance of their separated wives and of fathers for their children, legitimate or illegitimate, the policy was continued of encouraging the assisted wife or mother to take her own proceedings. Much time is spent in helping the women to trace the men concerned and in putting them in touch with the courts to obtain maintenance orders or affiliation orders or to seek enforcement or variation of existing orders. The total payments by liable relatives in 1956 came to over £2,000,000, which compares with less than £750,000 in 1950. The action taken by the Board's officers often results in a husband's accepting full responsibility for the maintenance of his family. Since 1953 the number of separated wives receiving assistance has fallen by 7,500, or about 10 *per cent.*

During the year the re-establishment centre at Clent, near Birmingham, was replaced by one at Henley-in-Arden. Nearly all men who go to the centre do so voluntarily and co-operate in the arrangements made for them. Twenty reception centres for casuals were closed in 1956. The average number accommodated in reception centres varied from the lowest figure of 1,626 in July to the highest figure of 1,859 in January, which were slight increases on the previous year. With the help of the authorities concerned efforts were made to resettle users of the centres. During the year 443 were returned to their families, 764 were admitted to establishments provided by local authorities under the National Assistance Act because they were in need of care and attention, 492 were admitted to hospital, 115 were sent to re-establishment centres and 11,338 were placed in employment.

In referring to the extension of the Legal Aid and Advice Act, 1949, to county courts on January 1, 1956, it is mentioned that it had been thought that this might result in a substantial increase of work for the officers of the Board but the total number of applications received by them rose by only 2,291 compared with the previous 12 months or just over six *per cent.* During the year 43,505 applications were disposed of in one way or another. Of the 39,648 applicants in whose cases determinations were made, 12,045 or 30 *per cent.* were found to be entitled to free legal aid, 22,386 or 57 *per cent.* to be entitled to legal aid subject to the payment of a contribution, and 5,217 or 13 *per cent.* to be outside the financial limits of the scheme.

LANCASHIRE NO. 9 PROBATION AREA REPORT

This combined area includes the Manchester county petty sessional division and the borough of Eccles.

Mr. J. W. Marsh, the senior probation officer, states in his report for 1956 that the number of adult persons placed on probation now remains fairly constant, and he draws the inference that the majority of adult offenders in this division deemed suitable have been given the opportunity of this treatment. The magistrates have almost invariably granted a remand for the purpose of inquiries, with a consequent higher expectation of success.

We are well aware that most probation officers dislike what they describe as debt collecting, by which they may mean accepting instalments from a person under their supervision pending payment of a fine, or being concerned in seeing that a probationer who has been ordered to pay compensation does so. It is, however, sometimes helpful to a probationer if the probation officer accepts sums offered to him and pays them over to the clerk, even though this is not part of his duty. Mr. Marsh, speaking of restitution in general, writes, "There is no situation better designed to destroy therapy through case-work principles than that in which debt collecting is predominant. The insistent demands by creditors on both offender and officer, in addition to the officer's duty to enforce restitution, imposes a heavy strain which militates against successful rehabilitation." For our part, we think that discipline is an important part of probation and that making amends for an offence ought to assist rather than frustrate the process of rehabilitation. It need not be predominant.

An increase in the number of adolescent girls brought before the court as in need of care or protection is attributed not so much to a wave of early immorality as to a development in the work of the women police. By the way, use of the word "offender" in this connexion is not altogether happy, even if the girls referred to have fallen into immorality.

The probation committee has been active. Seven meetings were held during the year and attendances have been good.

COUNTIES OF PERTH AND KINROSS: CHIEF CONSTABLE'S REPORT FOR 1956

One fact which strikes us in reading this report is the very low rate of sickness in this force compared with those in many other forces. The authorized establishment is 124 and the actual strength on December 31, 1956, was 123. Only 499 days were lost through sickness, equivalent to four per member.

By recruiting 13 men during the year and losing only six by retirement or resignation the force increased its strength by seven. There are 321 special constables.

Crimes and offences were more numerous than in 1955, 3,051 cases being reported in 1956 against 2,837 in the previous year. The number of persons prosecuted in the two years were 1,918 and 1,665 respectively, leading to 1,714 and 1,412 convictions. Ninety-eight juvenile offenders were proceeded against in 1956, 28 more than in 1955, and 34 others were warned in respect of minor offences.

There were proceedings in 1,539 traffic offences, and under this heading figures given for 1955 and 1956 show that prosecutions for being in charge of, or driving, motor vehicles while under the influence of drink decreased in 1956 to 28 from 38 in the previous year; reckless or careless driving decreased to 564 from 587 but speeding increased to 489 from 243.

Road accidents reported in 1956, numbering 1,534, were 70 more than in 1955. It is noted that among those killed in road accidents were five motor cyclists, only one of whom was wearing a protective helmet.

One hundred and sixty-seven persons were proceeded against for offences of drunkenness, and there were 381 persons who at the time of the commission of a crime or offence were more or less under the influence of drink.

Sheep worrying is one of the troubles to be contended with by this force. Twenty cases were reported during the year, with 64 sheep killed and 13 injured. Thirteen of the dogs responsible were traced and nine of them were destroyed.

COLOURING MATTER IN FOOD

The Minister of Agriculture, Fisheries and Food, and the Minister of Health, under powers conferred by the Food and Drugs Act, 1955, have made the Colouring Matter in Food Regulations, 1957.

The regulations are based on recommendations made by the Food Standards Committee. They replace the colour provisions of the Public Health (Preservatives, etc., in Food) Regulations, 1925–1953.

The regulations will come into effect by stages, beginning immediately, and will be fully operative by June, 1959. They apply to England and Wales only, but corresponding regulations for Scotland will shortly be made by the Secretary of State.

REVIEWS

Redgrave's Factories, Truck and Shops Acts. Nineteenth Edition. By John Thompson, Q.C., M.A., and Harold R. Rogers, M.A. Sometime His Majesty's Deputy Chief Inspector of Factories. London. Butterworth & Co. (Publishers) Ltd., 88, Kingsway, W.C.2. Price 57s. 6d. net, postage 1s. 6d. extra.

The need for a new edition of this standard work has been not so much the passing of new legislation as the number of important judicial decisions interpreting existing law and, in some instances, correcting what the learned editors describe as " ancient error." The end of July was set as the date up to which the law would be stated, but fortunately it was found possible, while the work was in the press, to include some decisions of a still later date.

Factory legislation is the subject of many prosecutions, and it also gives rise to civil actions. This book naturally deals with both aspects of the matter. It is pointed out, for instance, that the fact that, the person injured has been guilty of contributory negligence is no defence to a prosecution under s. 133 of the Factories Act, 1937, though it would be relevant as a defence to a civil action.

There is a valuable historical introduction dealing with factory legislation from its beginnings, which go back further than is generally realized. Today the law is enforced with vigilance, but there is little doubt that even after the Seventh Earl of Shaftesbury had called attention to the glaring evils existing in his day and legislation had resulted it was like early public health legislation, scantily observed in practice. Today both the law and the practice may be considered satisfactory.

The Truck Acts are not so widely understood among the general public as are the Factory Acts but even today they serve a useful purpose. Here, again, the editors furnish an interesting and informative introduction, tracing the course of the piecemeal legislation which, in their opinion, is in need of consolidation.

The book is convenient in size, attractively produced, and easy for reference, whether in court or in the office.

Delinquency and the Changing Social Pattern. By John Mack, M.A. The Fifth Charles Russell Memorial Lecture: Published by The Trustees, Charles Russell Memorial Lecture, 17 Bedford Square, W.C.1. Price 6d.

It is a refreshing change to find the problem of juvenile delinquency being tackled from a non-clinical standpoint. The purely psychiatric approach to this matter undoubtedly throws a good deal of light on individual needs in special cases, but there is surely a danger that the general problem of delinquency may become over-specialized. There is, one feels, the school which would regard every delinquent as physically or mentally sick, and, on the other hand, the school which would regard him as a person who is behaving wrongly and unsociably, and who can be put on the right path by a little sustained encouragement and firm understanding.

Mr. Mack belongs to this second group. He is full of commonsense and direct human sympathy—without being in the least degree sentimental. He is particularly concerned with " those normal individuals who are socially and environmentally conditioned to regard criminal behaviour as not in the least reprehensible, and who conform to official standards of behaviour (if they do conform) primarily because they dislike the consequences of being caught."

One suspects that Mr. Mack has children of his own: for, in our experience, the woolly theorists who decry all forms of punishment and who assert that the child who steals is always mentally sick, are nearly always people who have no children of their own, and whose work is not directly concerned with children. Mr. Mack is convinced that children generally do know when they are doing wrong, and he is equally convinced that the delinquency whose explanation is solely psychiatric is but a small part of the whole. As he says: " The main weakness of this type of explanation is that it does not explain the prevalence of delinquency *in bulk*. These writers are concerned only with a small minority . . . it does not affect the total figures, which are very largely made up of less persistent offenders."

Mr. Mack is concerned with the delinquent as a product of a community whose values are wrong: " neighbourhoods where children learn delinquent behaviour as part of the normal process of growing up." It is a vitally important approach to the problem which he makes: seeing the matter not in individual isolation but in its social context. We venture to predict that the most constructive work in tackling the problem of juvenile delinquency will be made along these lines. It is the values of society, or of large sections of it, which need altering. The Victorian ideal of personal example in the formation of character may not have been so wide of the mark as some modernists would maintain.

A Short History of the Berkshire Constabulary (One Hundred Years' Berkshire Constabulary).

The author of this account of the first hundred years of the Berkshire constabulary is Sergeant W. Indge, who must have devoted many hours and much labour to the task.

The first chief constable of the force (Colonel Fraser) was appointed and sworn in on February 9, 1856. His successors were Col. Blandy (1863), Col. Poulton, C.V.O., C.B.E. (1902), Commander The Hon. Humphrey Legge, C.V.O., D.S.O. (1932) and the present chief constable, Mr. J. L. Waldron (1954).

Chapters II to VII are devoted to the happenings during the period of office during each of these officers. They do not pretend to give a formal history of the force but, in the words of the present chief constable, they are a " collection of anecdotes and stories which we hope will appeal not only to the pensioners and older members of the force, but also to those residents of Berkshire who have the county at heart." Such a collection, ranging over 100 years, is bound to give an interesting account of the changes in habits and customs which have taken place. Up to 1902 cutlasses formed part of the equipment of some sergeants and constables in the force. As early as 1857 duties other than those strictly appropriate to police officers were undertaken when superintendents were made inspectors of weights and measures, and in the first six months " four *tons* of unjust weights were sold to the benefit of the county."

In the 1880's all ranks were warned by the chief constable that they were expected to set a good example to the rest of the population by attending some place of worship at least once on each Sunday. In 1911 the force became the possessor of one of the earliest police dogs, one trained by Major Richardson.

Later chapters are devoted to transport, traffic and communications (in 1902 motorists rushing along at 15 to 16 miles per hour were to be warned of their dangerous speed); police women and cadets; representation and welfare; the borough forces; special constables; " Broadmoor Criminal Asylum " and lastly " strictly personal," in which mention is made of various deputy chief constables and others.

We found this an interesting little book to read and we can recommend it to those of our readers who like to look back into the past in order to see how the present has evolved.

A Source Book and History of Administrative Law in Scotland. Various Authors. Edited by M. R. McLarty assisted by G. C. H. Paton. London and Edinburgh: William Hodge & Co. Ltd. Price 21s. net.

This book is said to break new ground in Scottish legal studies. The chapters into which it is divided have been contributed by various authors, and the senior editor is Lecturer in Administra-

tive Law at the University of Edinburgh. The treatment is primarily historical, it being the opinion of the editors that the present position of public administration cannot be grasped without a study of its origins. It begins, appropriately, with the burghs, which are the earliest organs of public administration in Scotland still existing. The author of this chapter accepts the opinion that the earliest Scottish burghs were created upon the model of English chartered boroughs at the beginning of the twelfth century, thus rejecting what he calls extravagant claims, made on behalf of certain places. Rural administration as now known in Scotland is more modern than in England, and there seems to have been a longer period when it was disorganized. After these chapters upon local government the work proceeds to the office of the Secretary of State which under that title dates only from 1926, but under the title of Secretary for Scotland goes back to the nineteenth century. Before this the powers of the national government were mainly exercised by the Lord Advocate.

From this point the book proceeds to consider various other government departments, and then comes to the duties of the sheriff and justices of the peace, and to that mysterious functionary, the Dean of Guild. Since English reformers have sometimes urged that a court modelled on the Dean of Guild Court would be useful here, this chapter should be interesting to English readers. It is interesting to notice how the sheriff, almost eclipsed in England, has maintained his status and functions in Scotland, albeit with great changes, described in chapter 7. We gather that the book is primarily intended as a work for students, but English readers who are interested in public administration will find it worth perusal.

PERSONALIA

APPOINTMENTS

Mr. M. N. Pell has been appointed clerk to Rugby, Warwickshire, magistrates, in succession to Mr. F. B. Crofts, who has resigned owing to illness.

Mr. A. E. Trueschler, clerk to the justices of the borough and county of Poole, Dorset, has been appointed clerk to the justices of Hampstead division of the county of London. He will commence his duties in November, next, upon the retirement of the present clerk, Mr. W. Ewart Price, who has acted continuously in that capacity since 1922.

Mr. Charles Davis, LL.B., chief assistant solicitor to St. Helens corporation, has been appointed deputy town clerk to the same authority. Mr. Davis will succeed the present holder of the office of deputy town clerk, Mr. A. Curran, in September next. Mr. Curran has just completed over 50 years' service in local government with St. Helens corporation. Mr. Davis was formerly assistant solicitor to Bolton corporation.

Mr. Cecil Pickavance, former senior assistant solicitor to Solihull, Warwickshire, corporation, began his duties as assistant solicitor to St. Helens, Lancashire, corporation, on June 11, last.

Mr. Ronald Purnell, at present legal clerk in the offices of Wiltshire county council, has been appointed to the vacant post of assistant solicitor to Margate, Kent, corporation, and he will take up his duties early in August. All Mr. Purnell's previous appointments have been with Wiltshire county council, including the position of senior committee clerk from 1950 to 1954, and legal assistant from 1945 to date. Mr. Purnell's predecessor at Margate, Mr. Henry Frederick Hales, has now been appointed deputy town clerk on the resignation of Mr. Harold Bedford, who has taken up the position of town clerk of Stamford, Lincolnshire. Mr. Hales' previous appointments were: assistant solicitor to Woking urban district council (1951-52); deputy clerk to Whitstable urban district council (1952-54); assistant solicitor to a private firm (1954-56); assistant solicitor to Margate corporation (1956 to date).

Mr. John Towey, LL.B., second assistant solicitor to the county borough of Blackburn, has been promoted to the post of senior assistant solicitor, in succession to Mr. Philip A. Clarke, B.A., who has taken up an appointment with the Nairobi city council.

Mr. R. Wax, formerly second assistant solicitor to the borough of Tottenham, N.15, has been appointed to the post of senior assistant solicitor. Before coming to Tottenham, Mr. Wax worked in private practice.

Mr. J. C. D. Fubini has been appointed senior probation officer at West London magistrates' court, in the county of London probation area, to succeed Mr. A. E. Cox, *see* our issue of April 13, last. Mr. Fubini took up his new duties on July 1, last.

Mr. James Tye has been appointed official receiver for the bankruptcy district of the county courts of Ashton-under-Lyne and Stalybridge, Blackburn, Blackpool, Bolton, Burnley, Oldham, Preston, Rochdale and Stockport. This appointment, announced by the Board of Trade, took effect from July 8, last.

Superintendent H. Farrow has been appointed chief of Dover, Kent, police in succession to Superintendent H. A. Saddleton, who is retiring after 16 years' service in that post.

RETIREMENTS

Mr. H. E. H. Lawton, clerk to Huyton-with-Roby, Lancashire, urban district council, retired on June 30, last, after 48 years in local government service, for the last 22 of which he was clerk and solicitor at Huyton.

Mr. Guy Southern has retired from his appointment of clerk to the justices of Burnley petty sessional division of Lancashire. Mr. Southern had held the appointment for 31 years and succeeded his father who had held the position for many years. Subject to confirmation by the Secretary of State, Mr. William Whittle, O.B.E., clerk to the justices of the borough of Nelson and the Colne petty sessional division, has been appointed to succeed Mr. Southern. Consequent upon the new grouping of the above three divisions, Mr. Roger May, Mr. Whittle's chief assistant, has been appointed to the re-designated post of deputy clerk to the justices and Mr. Bernard L. Firth, at present assistant clerk at Buxton, has been appointed second assistant to Mr. Whittle.

OBITUARY

Mr. Justice Nolan, C.B.E., M.C., a justice of the Supreme Court of Canada, since 1956, has died at Banff, Alberta. Mr. Nolan took his B.A. at Oxford University in 1921 and was called to the bar by Gray's Inn in 1922. In the same year he was called to the bar of Alberta and in 1934 took silk. Mr. Nolan was prosecutor for Canada before the International Military Tribunal for the Trial of War Criminals in the Far East from 1945 to 1948.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

At question time in the Commons Mr. S. S. Awbery (Bristol, C.) asked the Secretary of State for the Home Department if he would, in view of the embarrassing position in which people found themselves as the result of performing their duties as citizens and the threats made to them as a consequence, refrain in future from publishing the names of the people who had been directly or indirectly responsible for the detection and capture of criminals.

The Secretary of State for the Home Department, Mr. R. A. Butler, replied that no such information was published by his department, and he was informed by the commissioner of police of the metropolis that the police did not disclose the names of persons who had given them assistance in that way.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Monday, July 8

SUPERANNUATION BILL—read 2a.
LEGITIMATION (RE-REGISTRATION OF BIRTH) BILL—read 2a.
ADVERTISEMENTS (HIRE-PURCHASE) BILL—read 2a.
REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES (NAVY, MARINES AND SERVICE CIVILIANS) (OVERSEAS) BILL—read 2a.

Tuesday, July 9

PARISH COUNCILS (MISCELLANEOUS PROVISIONS) BILL—read 2a.
REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL—read 2a.
NATIONAL HEALTH SERVICE (AMENDMENT) BILL—read 2a.

Thursday, July 11

SUPERANNUATION BILL—read 3a.

BEYOND THE RUBICON—II

In the midst of Old Rimini rises the Tempio dei Malatesta, a vast structure in the mature Renaissance style, built by Sigismondo in 1446–1455 from designs by the famous architect Alberti. It has the grandeur and dignity of Augustan Rome ; but it gives the impression of having been erected, not so much to the glory of God as to the glory of Sigismondo and Isotta, for many years his mistress and eventually his consort. Their names, monograms and arms appear conspicuously in many parts of the edifice ; and everywhere there are florid Latin inscriptions extolling the political and military exploits of Sigismondo. In the first chapel is a painting by Piero della Francesca, showing Sigismondo kneeling at prayer before his patron saint whose name he bears. Some authorities have unkindly suggested (not without internal and external evidence) that the great Malatesta is really represented as praying to his deified self.

It was two centuries before Sigismondo's day that the tragic episode occurred which is described with such exquisite pathos by Dante, in the Fifth Canto of the *Inferno*. In the latter half of the thirteenth century the ruling member of the family was Gianciotto Malatesta, a deformed cripple. He was desirous of marrying the beautiful Francesca da Polenta, daughter of the lord of the neighbouring city of Ravenna. Realizing that, with his own physical disadvantages, his suit would not prosper, he sent to Ravenna his younger brother Paolo, a youth famed for his beauty of body and feature, as an emissary empowered to marry Francesca by proxy on his behalf. How far Paolo was in the secret has never been made clear ; but it seems that Francesca was deceived into believing that Paolo was to be her bridegroom. Boccacio, in his commentary on Dante's work, goes so far as to say that the first she knew of the deception was after her journey to Rimini, when she found the unattractive Gianciotto, instead of Paolo, by her side in the marriage-bed. Lawyers may speculate whether such a " marriage " was ever valid at all ; but in 1285 it was not so easy for women to assert their rights. At any rate, things took their inevitable course. While Gianciotto was frequently absent on his military campaigns, Paolo and Francesca became lovers. Eventually Gianciotto surprised them together and, in the grim Castle of Gradara, which stands lonely and menacing on a lofty spur in the foothills of the Apennines, north-west of the city, he put them both to death.

In the *Inferno*—composed only 16 years later—Dante and Vergil meet the shades of the lovers, floating lightly, hand in hand, on the rushing wind that blows through that Circle of Hell, and hear the story from Francesca's lips, prefaced by the famous lines :

Nessun maggior dolore
Che ricordarsi del tempo felice
Nella miseria—

"There is no greater pain than the remembrance of happy days in times of grief." Dante, while acknowledging the heinousness of their sin and the justice of their punishment, is human enough to be deeply affected with compassion for their fate, and falls unconscious at the sound of their piteous laments.

Further westward from Gradara, high up in a mountain valley, with range after range of the Apennines making a wild and wonderful background, lies the little city of Urbino, famous as the birthplace of Raphael in 1483. Here the ruling family of the time was that of Montefeltro, and the ducal palace, built in 1465, stands in an impregnable position on a height overlooking the city, with the majestic mountains beyond. In the fifteenth century the ruler was Federigo Montefeltro, soldier, statesman and patron of the arts. The palace contains some fine art treasures, including Raphael's *Portrait of a Noble Lady*, two pictures by Piero della Francesca and one by Uccello. A walk through the narrow, crooked streets takes the visitor to the house where Raphael was born.

Perhaps the most fantastic place in the neighbourhood is the city of San Marino, capital of the minute independent republic of the same name, covering an area of only 24 square miles. This tiny state has preserved its independence since 1631 and, judging from the inscriptions everywhere, is proud of its reputation as the guardian of liberty. The Italian patriot Garibaldi took refuge there from the Austrians. It seems that San Marino declared war on Germany in 1915 ; In the Second World War it was neutral. The republic is governed by two Captain-Regents, elected twice a year from the Great Council ; it issues its own postage-stamps and has its own government departments and police force ; but, mercifully, the visitor is not called upon to pass any customs examination, or to produce his passport, on crossing its frontier.

East of Rimini, on the shores of the Adriatic, are 16 miles of fine bathing beaches, gay with striped, coloured umbrellas and awnings, and lined with modern, handsomely-built hotels. These resorts are essentially holiday-places for the ordinary Italian family, though an increasing number of foreigners (particularly Germans) go there on vacation. There is practically no tide ; the beach-organization, cleanliness and tidiness are such as many an English seaside town might envy. The only drawback is the motor traffic ; the volatile Latin character manifests itself in the habit of making as much noise with horns, low horse-power engines on motor-cycles and motor-scooters, as possible, and the din, day and night, is far worse than in Oxford Street in the rush-hour.

A.L.P.

ADDITIONS TO COMMISSIONS

CAMBRIDGE CITY

Mrs. Pauline Ruth Burnet, 11 Selwyn Gardens, Cambridge.
Mrs. Philippa Hill, 11 Chaucer Road, Cambridge.
Stuart Osland Sennitt, 418 Milton Road, Cambridge.
Arthur Leslie Symonds, 66 St. Barnabas Road, Cambridge.

COVENTRY CITY

Robert William Brain, 284 Binley Road, Coventry.
Reginald Walter Dawson, 8 Bevington Crescent, Coventry.
Mrs. Beatrice Mary Dewis, 159 Wheelwright Lane, Exhall, Coventry.
Charles Edward Lodge, 129 Kingsbury Road, Coventry.
Mrs. Winifred Markie, 28 Nailcote Avenue, Tile Hill, Coventry.
Mrs. Alice Muriel McNamara, 51 Hall Green Road, Coventry.
Gwyn Rees, 67 Highfield Road, Coventry.
Ralph Edward Tricker, Newlands, St. Martin's Road, Finham, nr. Coventry.

GRAVESEND BOROUGH

Henry Alderson, 15 Hillingdon Road, Gravesend.
Leslie William Thomas Kempster, Cherrycroft, 369 Singlewell Road, Gravesend.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Children and Young Persons—*Attainment of age* 17—*Jurisdiction.*

I have recently had a case in which a boy was charged with unlawfully firing a gun on the highway on January 15, 1957. The boy reached the age of 17 on January 26 and he appeared before the justices to answer the charge on February 18. The case was heard before the juvenile court and the boy convicted. I have since been informed that the case should have been heard by the magistrates' court as the boy was 17 at the date of trial. I shall be grateful if you will please let me know what authority (if any) states that the age shall be determined as at the date of trial and not as at the date when the offence was committed. Section 48 (1) of the Children and Young Persons Act, 1933, appears to refer indirectly to a case of this kind but I cannot trace any authority on the point mentioned above.

VOROF.

Answer.

In our opinion s. 48 (1) does not apply to cases where it is known throughout that at the time of the hearing the defendant will no longer be a young person.

Express authority is given by s. 48 (2) for a juvenile court to deal with persons over 17 in special circumstances, and we think that the inference must be drawn that the juvenile court has not the power in other circumstances.

2.—Criminal Law—*Committal to sessions for borstal sentence—Probation order made—Commission of further offence.*

I wish to refer to s. 20 (3) of the Act. A case has arisen where a person to whom that subsection referred was committed to the appeal committee of quarter sessions in accordance with the provisions of the subsection and was dealt with, under subs. 5 (*a*) (*ii*) of the section, by a probation order.

The probationer has now committed a further offence, in respect of which he was convicted by a court of summary jurisdiction, and as a result of this he has been returned to the appeal committee in accordance with the provisions of s. 8 of the Act.

The difficulty which now arises is that at the present time the probationer is over the age of 21, and as a result he is no longer eligible for borstal training. Is the appeal committee, when dealing with him, that is to say dealing with him for the original offence, restricted to the remaining powers contained in s. 20 (5) (*a*)—which appear to be just about nothing—or can the appeal committee apply s. 8 (5), ignoring the basis of the original committal for sentence?

To sum up, I shall be glad to have your views as to the applicability of s. 8 (5) to a case of this nature and also to have your views as to the powers of the appeal committee in a case of this nature in respect of an offence of, say, larceny.

F. JOHNIAN.

Answer.

Section 20 (3) of the Criminal Justice Act, 1948, was repealed by the Magistrates' Courts Act, 1952, and replaced by s. 28 (1) of that Act.

The situation in the present case is not specifically provided for by the 1948 Act. From a reading of s. 8 (5) of the Act, it would appear that quarter sessions has a free hand to deal with the offender as if he had just been convicted on indictment before that court. We hardly think this can have been the object of s. 20, and we think that s. 8 (5) must be read with the reason for the original committal to sessions in mind. Commonsense seems to indicate that when sessions have not used the only power available to them additional to the powers available to the magistrates' court which committed the offender to sessions in the first place, they cannot subsequently assume the powers they would have if the offender had just been convicted on indictment before them. In our opinion in this case, since the offender is now over the age of 21, sessions can deal with him only in one of the ways the magistrates' court itself could do.

3.—Gaming—*Small Lotteries and Gaming Act,* 1956, *s.* 4—"*Entertainment.*"

I have read with interest the opinion on P.P. 1 on p. 152, *ante.* May I, with respect, put forward a slightly different view? Your opinion is obviously correct so far as the conditions laid down by s. 4 (1) of the 1956 Act are concerned but I wonder if the word "entertainment" should be given more stress. Section 4 (1) shows that this section applies "to any entertainment . . . being an entertainment at which games of chance . . . are played in accordance with" certain conditions. The sole entertainment in the Practical Point appeared to be the tombola itself and I would urge that tombola or other game of chance must be incidental to an entertainment of some kind, be it a dance, fête, bazaar, social evening, ladies' night or other function. If the game of chance itself can be the entertainment, surely the section would have been worded to say that it applied to any game of chance and the word "entertainment" would have been unnecessary; alternatively, it could have read "being an entertainment consisting wholly or partly of games of chance."

The Betting and Lotteries Act, 1934, s. 23, shows that the holding of lotteries incidental to certain types of entertainment is familiar to the draftsman. On the other hand, it is true that s. 23 refers to lotteries "incidental" to certain entertainments and s. 4 of the 1956 Act does not use that word.

H. CAMBRIAN.

Answer.

This point is touched on in the P.P. below.

We appreciate the force of our correspondent's argument, but we remain not wholly convinced that the "entertainment" envisaged by the 1956 Act must necessarily be something other than the game of chance itself. The matter is not free from doubt but, as our correspondent says, the new Act does not use the word "incidental." In our opinion, para. 6 of the H.O. Circular 93/56 supports our view when it says that s. 4 of the 1956 Act makes lawful "certain kinds of gaming party conducted with the object of raising money for purposes other than private gain (the whist drive for charity will be a common example)."

4.—Gaming—*Small Lotteries and Gaming Act,* 1956, *s.* 4—*Small gaming party.*

A social club has applied to my council for registration under the Act. The club proposes to raise funds for charitable purposes from members by means of the game commonly known as "tombola" or "housey-housey."

So far as I am aware, a whist drive is the only example quoted by various writers to illustrate a game of chance or chance and skill, falling within s. 4 of the Act, and I should consequently be obliged if you would let me have your opinion as to whether:

(*a*) the game of "tombola" or "housey-housey" would fall within the class of games referred to in s. 4, provided that the requirements of subs. (1) of s. 4 were observed?

(*b*) If your reply to (*a*) is "no" may the game be regarded as a lottery which should be promoted only after registration of the club under the Act?

(*c*) Must the games of chance or chance and skill referred to in s. 4 be held incidental to other entertainment to qualify for the exemption provided by the section, or may such games be regarded as the entertainment?

GESTOR.

Answer.

There is no requirement in the Act that a society intending to hold a small gaming party must register with the local authority. Section 4 of the Act is to be read by itself and not in conjunction with ss. 1 to 3.

We would answer the specific questions as follows:

(*a*) Yes.

(*b*) Does not arise.

(*c*) The section seems to imply that the game is incidental to other entertainment, but we think it could be argued that the game itself could form the entertainment.

5.—Housing Act, 1936—*Housing Repairs and Rents Act,* 1954.

Section 5 of the Act of 1954 permits the council to extend the time for demolition if the owner proposes to reconstruct, etc., but the council must be satisfied that the result will be the provision of one or more houses fit for habitation. Apart from this provision, it appears that there is no alternative to complete demolition once a demolition order has become operative. Occasionally in rural areas a farmer asks permission to use such a house for agricultural purposes. Is there any lawful means whereby the council can acquiesce in the permanent postponement of demolition?

PORTIR.

Answer.

Once the demolition order is made s. 5 of the Act of 1954 is the only means of postponement of the operation of the order. The use of houses for other purposes is usually the result of an undertaking under s. 11 of the Housing Act, 1936, given before a demolition order is made.

6.—Housing Act, 1936, s. 11—*Unfit house on agricultural holding.*

A is the tenant of Blackacre, an agricultural holding of 13½ acres. The dwelling-house at Blackacre is in a state of disrepair and B the owner of Blackacre has during the last two years refused to carry out any repairs to the dwelling-house at Blackacre or the outbuildings. The district council has made a demolition order in pursuance of s. 11 of the Housing Act, 1936, in respect of the dwelling-house at Blackacre.

A remains in occupation of Blackacre and B is now making an application to the magistrates to issue a warrant directing the police to enter and take possession of Blackacre.

1. Is the dwelling-house at Blackacre subject to the provisions of the Housing Act, 1936 ?

2. If not, what steps should A take to force B to repair Blackacre ? ELOPA.

Answer.

1. Yes; there is nothing in the Housing Act, 1936, or in the enactments relating specifically to agricultural holdings, which takes the latter out of s. 11 of that Act.

2. Does not arise.

7.—Local Government Act, 1948, s. 132—*Limit of expenditure—Relation to local Act expenditure.*

My council many years ago obtained powers under a local Act to provide entertainments. The section does not contain any limitation on the amount to be expended. Does the proviso to s. 132 (3) of the Local Government Act, 1948, impose a limitation on the amount permitted to be expended in pursuance of the local Act ? BOLKO.

Answer.

We think not. The proviso is expressed to be a limit upon the expenditure under the Act of 1948. If the council spend (say) a fivepenny rate under the local Act, this leaves them only a penny to spend under the Act of 1948, but they can still go higher under the local Act—the effect being to render s. 132 of the Act of 1948 inoperative.

8.—Magistrates—*Jurisdiction and powers—Enforcing payment of costs against appellant awarded by quarter sessions—Appellant in Scotland.*

X appealed to the appeal committee of quarter sessions for this county against a driving disqualification. The committee increased the fine which X had been ordered to pay in the lower court and ordered him to pay £10 towards the costs incurred by the respondent police. The order for payment of costs was made under the provisions of s. 31 (7) of the Summary Jurisdiction Act, 1879, and by virtue of s. 5 of the Summary Jurisdiction (Appeals) Act, 1933, the sum awarded may be recovered summarily as a civil debt but cannot be recovered in any other manner.

X is resident in Scotland. Letters to him have received no reply. The provisions of s. 4 (4) of the Summary Jurisdiction (Process) Act, 1881, appear, however, to preclude the service of process upon him. Do you agree with this conclusion and is there any method by which X can be brought before a court in England ? K.F.H.R.

Answer.

We agree that these costs are enforceable as a civil debt and not otherwise, and that s. 4 (4) of the Act of 1881 excludes from the operation of s. 4 process to enforce payment of a civil debt. There is no method of enforcing payment of these costs while the appellant remains in Scotland.

9.—Magistrates—*Practice and procedure—Magistrates going to view of a vehicle, or premises, or any object with which proceedings before them are concerned.*

It is sometimes suggested that magistrates should leave the court in which they are sitting to view premises or objects, *e.g.*, vehicles with which proceedings are concerned. Do you consider this a valid procedure having regard to s. 98 (3) of the Magistrates' Courts Act, 1952 ? It seems clear after the decision in *Buckingham* v. *Daily News* that a view is part of the hearing.

Keeble v. *Miller* [1950] 1 All E.R. 261; 114 J.P. 143 which is sometimes cited in support of an application to view, does not seem in point as it was a decision on appeal from a metropolitan magistrate to whom s. 98 does not seem to apply. LIDDA.

Answer.

Going to view something in the way suggested is eqivalent to having an exhibit produced in court, and when the thing to be seen cannot be brought into court because of its size or immovability it is quite in order for justices to go to view it. Section 98 (3), *supra*, is certainly not intended to prevent their doing so.

A metropolitan magistrate is required to conduct his proceedings in a metropolitan magistrates' court as justices are required to sit in a petty sessional or occasional court-house, and he is in exactly the same position as justices are so far as a view is concerned.

10.—National Health Service Act, 1946, s. 28—*Recovery of cost.*

My council has made various arrangements under this section for prevention of illness, care, and after-care and it is the council's practice to recover from persons availing themselves of the services charges based on a scale. Frequently, particularly for convalescent treatment, the patients are married women without separate means; I should be glad to have your views on whether a husband is liable to pay charges based on his means, for services of which his wife has availed herself under this section. If your answer is affirmative, could you please give authorities to substantiate it. If the husband is liable without express statutory provision to pay for these services on his wife's behalf it is difficult to understand the need for s. 42 of the National Assistance Act, 1948, which expressly makes a husband liable for services rendered to his wife under that Act.

I should perhaps add that the council hold the husband's unstamped undertakings to pay for the services in question, but it appears to me that, quite apart from the lack of a stamp, the undertakings are of little value as they will not make the husband liable if he is not liable under the Act, and if he is liable under the Act the undertaking is superfluous. Your observations on this point also would be appreciated. CORAM.

Answer.

Section 42 of the National Assistance Act, 1948, is a re-enactment, in part, of the original poor law. In absence of a parallel provision in the National Health Service Act, 1946, the husband is not liable. We do not think the undertakings mentioned are of any value, seeing that the health authority are bound to provide the treatment.

11.—New Streets Act, 1951—*Security not required—Action by frontagers under s. 6.*

In 1952 estate developers submitted plans for the erection of eight houses in a private street already partially developed, and the council approved the plans, but took no action under the New Streets Act, 1951, to exempt the development from the provisions thereof under s. 1 or to require provision of a security under s. 2. The estate developers subsequently entered into a bond which does not mention the 1951 Act, to secure a payment in respect of that portion of the private street works attributable to the frontage of the premises, but the estate developers have not, in fact, carried out any street works. The owners of the eight houses have served a notice on the council under s. 6 of the New Streets Act, 1951, requiring the council to exercise their powers. They represent the majority of the frontagers. Can the council be required to secure the making up of the street, and to declare the street to be a highway repairable by the inhabitants at large, or alternatively, can the bond be regarded as outside the terms of s. 2 of the New Streets Act, 1951, having regard to the fact that the notice referred to under s. 2 (1) of that Act had not been served ? PAROD.

Answer.

No deposit or security has been made or given under the New Streets Act, 1951. The bond as a security was, it seems, out of time under s. 2 of the Act, and was later given voluntarily and operates, in our opinion, not as a security under the Act but as an agreement between the council and the developer. The frontagers therefore have no powers under s. 6 of the Act.

12.—Probation—*Probation order made by juvenile court for indictable offence—Commission of further offence after offender attains 17—Can this be treated as breach of original order ?*

A boy having been convicted by a juvenile court of breaking and entering was placed on probation. During the currency of his probation order but after he had attained the age of 17 years he was convicted of larceny of a bicycle. It appears that because of his present age it is impossible to deal with him under s. 8 of the Criminal Justice Act, 1948, and the footnote to s. 6 in *Stone* says "A probationer who is convicted of an offence committed

during the probation period is not liable to be dealt with under this section."

However, the commission of the further offence appears to be an infringement of the requirement to lead an honest life.

In the special circumstances of such a case is it considered proper and appropriate to deal with the matter under s. 6? Unless that can be done the probation order will have been flouted with impunity. GORA.

Answer.

This notorious *casus omissus* appeared in a P.P. at 119 J.P.N. 758, where the proposed solution was to commit the offender to quarter sessions for sentence. For reasons stated thereat, we do not think it was possible; nor do we think the solution proposed in this case to be possible. Where the wording of an Act is as clear as s. 6 (6) of the Criminal Justice Act, 1948 we do not think that any exceptions can be made; as we have said before, nothing can be done in this case until Parliament has cured the defect.

13.—Rating and Valuation—*Rate recovery proceedings—Expenses of rating authority.*

The rating authority is concerned at the cost of the clerical work incurred in connexion with proceedings to recover arrears of rates; many of the persons who have to be summoned half yearly being persistent defaulters who appear to regard it as financially worth while to hold on to their money until the last moment, and then to pay the small fee of 2*s.* in respect of the issue of the summons. The rating authority argue that their administrative costs are increased by the large numbers of defaulters who adopt these tactics, and that if the defaulters had to pay more they would be less inclined to default until the last moment. The rating authority therefore propose to include in the summons, over and above the scale fee allowed in sch. 4 to the Magistrates' Courts Act, 1952, for the issue of the summons, a claim for a further sum of 5*s.* for costs of the rating authority, and to ask the court to allow this sum when the distress warrant is issued.

It is not clear under what statutory authority, if any, such a sum could properly be allowed by the court. It appears that s. 1 of the Distress for Rates Act, 1849, contained power for the court to allow reasonable costs and expenses, and it might have been argued that the proposed charge of 5*s.* could have been allowed under that section. The present position, however, seems uncertain in view of s. 13 (4) of the Rating and Valuation (Miscellaneous Provisions) Act, 1955, and the Distress for Rates Order, 1956. Under the latter part of s. 13 (4) it is enacted that:

"in s. 1 of the Distress for Rates Act, 1849 (which relates to warrants for distress) the reference to reasonable charges, in relation to distress for rates, shall be construed as a reference to the fees, charges and expenses chargeable in accordance with any order for the time being in force under this section."

The Distress for Rates Order, 1956, does not authorize payment of such a fee as is now proposed by the rating authority, which is in respect of clerical work which precedes the actual issue of the distress warrant. Apart from these provisions, it is not clear whether s. 55 of the Magistrates' Courts Act, 1952, has any application in proceedings for the enforcement of rates as the section deals with costs following the hearing of a complaint. There may be some substance in the contention of the rating authority, but on the other hand that authority is in no worse position than the court itself which is still tied to a schedule of fees which has been lifted out of the Criminal Justice Administration Act, 1914, and bears little relation to the present day value of money.

In your opinion has the court power to allow such a proposed fee to the rating authority, and if so, under what statutory authority? EVILA.

Answer.

The rating authority's office or administrative expenses must in our opinion fall upon their general funds, and can not be charged upon certain ratepayers whose conduct increased those expenses.

14.—Road Traffic Acts—*Insurance—Towing—Towed vehicle has engine removed—"Disabled mechanically propelled vehicle."*

A motor vehicle (a pick-up) is used to tow another "motor vehicle" on a road from A to B. The towed vehicle has had its engine completely removed and the engine is carried separately in the towing vehicle to its new owner who resides at B.

The certificate of insurance (and policy) of the towing vehicle bears the following endorsement "The policy does not cover use whilst drawing a trailer except the towing of any one disabled mechanically propelled vehicle." I cannot find a definition of a "disabled mechanically propelled vehicle" and the only reference to a "broken down vehicle" which I can find is that in the Registration and Licensing Regulations, 1955, which refer to "a vehicle which, while being driven on a public road has become unable to proceed under its own power."

I shall be obliged if you will let me know whether or not, in your opinion there is insurance cover in the circumstances set out above, having regard to the fact that the towed vehicle was not a vehicle which had broken down on a journey, but which had been dismantled prior to the journey. LYNED.

Answer.

We do not think that this trailer was at the material time a mechanically propelled vehicle. It had no means of propulsion and is not in our view appropriately described as a disabled mechanically propelled vehicle. We do not think that there was any cover for this user under the policy in question.

15.—Road Traffic Acts—*No excise licence—Liability of hirer using hired car during "days of grace" if owner does not subsequently renew the licence.*

A, the owner of a car hire firm, hired out to B a car for 28 hours on October 5, 1956. B paid the necessary charges and the insurance. As the date was in the days of grace there was no current Road Fund licence. A failed to license the car within the days of grace and in fact did not renew the licence at all. A has been summoned for using the car without a licence and B for aiding and abetting him so to do. The point arises how far B can be guilty of aiding and abbetting during the days of grace when he had no reason to think that A did not intend to license the car within time allowed. B is probably guilty as he should have refused to take out a car that was not licensed but in view of the fact that he had no reason to believe that A would not license the car within the period allowed the magistrates would be justified in giving an absolute discharge. Your opinion is requested. LINKS.

Answer.

We think that B did commit an offence as suggested, but we feel that the case of *Carpenter* v. *Campbell and Another* [1953] 1 All E.R. 280; 117 J.P. 90, is in point and that the High Court might well express, about the prosecution of B, a view similar to that which they expressed in that case about the prosecution of the driver of the vehicle. We think, therefore, that if B is convicted a very lenient view of his offence may properly be taken.